

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JONATHAN WAYNE MUNDO,

Plaintiff,

v.

LOPEZ, et al.,

Defendants.

Case No.: 2:24-cv-02026-APG-NJK

ORDER

(Docket Nos. 5, 6, 10, 16, 19, 22, 23)

On October 31, 2024, this Court directed Plaintiff to either pay the full \$405 filing fee for a civil action or file a complete application to proceed *in forma pauperis* (“IFP”). Docket No. 3. Plaintiff has yet to file a fully complete IFP but has submitted the first three pages of the application. *See* Docket No. 5. Plaintiff also filed a motion informing the Court that he had submitted a request to inmate accounting for a financial certificate and an inmate account statement but has not heard anything. *See* Docket No. 6. In the meantime, Plaintiff has filed numerous motions, declarations, exhibits, and other documents with the Court over the last two months but still has not submitted a fully complete IFP. *See* Docket Nos. 7-23.

The Court cannot substantively work on Plaintiff’s case (including the motion for temporary restraining order) until he satisfies the matter of the filing fee by either paying the fee in full or submitting a complete IFP. *See* 28 U.S.C. § 1914(a) (noting the court must collect filing fees from parties initiating civil actions); 28 U.S.C. § 1915 (outlining the *in forma pauperis* process). The Court grants Plaintiff an extension of time **until January 17, 2025**, to file a fully complete IFP by submitting both a completed financial certificate on page 4 of the Court’s approved form and a copy of the inmate’s prison trust fund account statement for the previous six-month period. The Court denies as moot the motions that attempt to explain the status of his IFP. Docket Nos. 6, 10.

1 Additionally, Plaintiff has filed multiple documents that appear to revise or piecemeal the
2 complaint he seeks to submit to the Court. *See* Docket Nos. 16, 19, 22. The Court grants Plaintiff's
3 motion for leave to amend, Docket No. 19, but denies the motions that try to piecemeal various
4 filings together to make an operative complaint, Docket Nos. 16, 22.

5 Plaintiff is directed to file one operative amended complaint that contains all claims,
6 defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. Plaintiff must
7 note that any amended complaint supersedes (replaces) the original and previously amended
8 complaints and, thus, the final amended complaint must be complete in itself. *See Hal Roach*
9 *Studios, Inc. v. Richard GFeiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that
10 "[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading
11 supersedes the original"); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012)
12 (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims
13 in a subsequent amended complaint to preserve them for appeal).

14 The Court will send Plaintiff a courtesy copy of Nevada General Order 2021-05.¹ Plaintiff
15 must review the order to help him better understand the litigation process. The Court does not
16 need exhibits at this stage of the litigation, nor does it need Plaintiff to provide the proposed law.
17 *See* Docket No. 23.

18 Accordingly, for the reasons stated above,

19 IT IS ORDERED that Plaintiff's application for leave to proceed *in forma pauperis* is
20 **DENIED** without prejudice. Docket No. 5.

21 IT IS FURTHER ORDERED that, **no later than January 17, 2025**, Plaintiff must either
22 pay the full \$405 filing fee or file a fully complete IFP with all three required documents: a
23 completed application with the inmate's two signatures on page 3; a completed financial certificate
24 that is signed both by the inmate and the prison or jail official; and a copy of the inmate's trust
25 fund account statement for the previous six-month period.

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28 ¹ The general order provides an old filing fee. The current filing fee for a civil action is \$405.

1 IT IS FURTHER ORDERED that the various motions filed by Plaintiff are **DENIED**.
2 Docket Nos. 6, 10, 16, 22, 23.

3 IT IS FURTHER ORDERED that the motion for leave to amend is **GRANTED**. Docket
4 No. 19. If Plaintiff chooses to file another amended complaint, he may file one **no later than**
5 **January 17, 2025**. He must label the proposed amended complaint as his “Third Amended
6 Complaint.” If Plaintiff chooses not to file a Third Amended Complaint, the Court will consider
7 the Second Amended Complaint, Docket No. 19-1, as the operative complaint in this case.

8 IT IS FURTHER ORDERED that, if Plaintiff fails to timely comply with this order, this
9 action will be subject to dismissal without prejudice. A dismissal without prejudice allows
10 Plaintiff to refile the case with the Court, under a new case number, when Plaintiff can file a
11 complete IFP or pay the required filing fee.

12 The Clerk of the Court is **INSTRUCTED** to send Plaintiff: (1) the approved IFP form for
13 an inmate with instructions; (2) the approved form for filing a 42 U.S.C. § 1983 complaint with
14 instructions; (3) a copy of the District of Nevada’s General Order 2021-05 (Oct. 31, 2021); and (4)
15 a copy of Plaintiff’s proposed Second Amended Complaint (Docket No. 19-1).

16 IT IS SO ORDERED.

17 DATED: December 19, 2024.

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21 NANCY J. KOPPE
22 UNITED STATES MAGISTRATE JUDGE
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